

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

MICHAEL SMITH,)	CASE NO. _____
)	
Plaintiff,)	
)	
vs.)	DEFENDANTS' NOTICE OF REMOVAL
)	
BRANCH INTERMEDIATE SCHOOL)	
DISTRICT,)	
)	
and)	
)	
SUZANNE COCO,)	
)	
Defendants.)	JURY TRIAL DEMANDED

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Branch Intermediate School District (“Branch Intermediate”) and Suzanne Coco (“Coco”), hereby remove the above-captioned action from the Circuit Court of St. Louis City, Missouri, to this Court. In support of removal, Defendants state as follows:

I. State Court Action.

1. Plaintiff Michael Smith (“Plaintiff”) originally filed this action on or around July 6, 2022, in the Circuit Court of St. Louis City, Missouri. It was assigned Case No. 2222-CC06392 on the docket of that Court. A copy of the state court docket sheet and all process, pleadings, orders, and other documents on file with the Circuit Court of St. Louis City or served by Plaintiff are attached hereto as Exhibit A.

2. As detailed in the Petition, this case concerns an automobile accident that occurred on or about October 16, 2019, in the City of St. Louis, Missouri. Plaintiff alleges that Defendant Coco was operating a vehicle during and in the course of her “agency, servitude, and/or

employment” with Defendant Branch Intermediate when she rear-ended a vehicle driven by Plaintiff. (*See* Plaintiff’s Petition, ¶¶ 4-6.)

3. As a result of the collision, Plaintiff alleges he sustained “serious injuries” to his left shoulder, neck, back, left leg, left arm, and head, along with pain and suffering. (*See* Plaintiff’s Petition, ¶ 12.) He also alleges his injuries “required care and treatment from physicians and other health care professionals, all at a substantial expense.” (*See* Plaintiff’s Petition, ¶ 12.) Furthermore, Plaintiff alleges that he lost wages and that his injuries will require future medical treatment.” (*See* Plaintiff’s Petition, ¶¶ 13-14.)

4. Before filing suit, Plaintiff sent a settlement demand letter to Defendants. (*See* Correspondence to Defense Counsel, redacted version attached as Exhibit B.) In this correspondence, Plaintiff’s counsel states that Plaintiff’s past and future medical bills total \$817,464.55. Counsel also made a settlement demand for “any and all of your insured’s applicable policy limits and payments.” (*See* Exhibit B.)

II. Venue and Jurisdiction.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 105(b), 1391, 1441(a), and 1446(a) because the Circuit Court for St. Louis City, Missouri, where the Petition was filed, is a state court within the Eastern District of Missouri. Further, the events that form the basis of Plaintiff’s allegations in the Petition occurred in this District.

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a) because, as explained more fully below: (1) there is complete diversity between Plaintiff and Defendants; (2) the amount in controversy exceeds \$75,000, exclusive of interests and costs; and (3) all other requirements for removal have been satisfied.

III. Grounds for Removal – Diversity Jurisdiction.

7. This action is removable under 28 U.S.C. § 1332(a). Pursuant to § 1332, federal district courts have “original jurisdiction” over all actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different states. *See* 28 U.S.C. § 1332(a).

A. There is Complete Diversity of Citizenship Between Plaintiff and All Defendants.

8. At the time of the filing of the Petition and this Notice of Removal, Plaintiff was and is a citizen of the state of Missouri. (*See* Petition, ¶ 1). Therefore, upon information and belief, Plaintiff is a Missouri citizen. *See Altimore v. Mount Mercy Coll.*, 420 F.3d 763, 768 (8th Cir. 2005) (“Citizenship is determined by a person’s physical presence in a state along with his intent to remain there indefinitely.”).

9. Defendant Suzanne Coco is an individual and a resident and citizen of the State of Michigan. (*See* Petition, ¶ 2).

10. Defendant Branch Intermediate School District is a school district in the State of Michigan and is a citizen of the State of Michigan. (*See* Petition, ¶ 3).

11. Because Plaintiff is a citizen of Missouri, and all Defendants are citizens of States other than Missouri, complete diversity exists between Plaintiff and Defendants. *See* 28 U.S.C. § 1332(a).

B. The Amount in Controversy Exceeds \$75,000.

12. Plaintiff’s claims also satisfy the amount-in-controversy requirement as set forth in 28 U.S.C. § 1332(a).

13. Defendants believe, in good faith, that more than \$75,000 is in controversy to confer diversity jurisdiction on this Court under 28 U.S.C. § 1332(a). “[A] defendant’s notice of removal need only include a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

14. Here, this threshold is met because Plaintiff seeks a variety of damages, including past and future medical bills and lost wages, for injuries Plaintiff described as “serious” to numerous body parts. (*See* Petition, ¶¶ 12-14).

15. Moreover, according to Plaintiff, his damages for past and future medical bills alone total \$817,464.55. (*See* Exhibit B; *see also McClure v. Raymond Corp.*, 174 F. Supp. 982, 984 (E.D. Mo. 2001) (finding that the defendant met its burden to establish the jurisdictional minimum where Plaintiff’s medical bills totaled \$123,000)). On top of this amount, Plaintiff also seeks damages for pain and suffering and for lost wages, and issued a settlement demand for “any and all of your insured’s applicable policy limits and payments.” (*See* Exhibit B).

16. This case therefore meets the requirements for federal diversity jurisdiction pursuant to 28 U.S.C. §§ 1332 and 1441.

IV. All Other Removal Requirements are Satisfied.

A. Timeliness of Removal.

17. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b), as Defendants received the Summons and Petition through service as follows:

- Defendant Coco received the Petition via process server on July 12, 2022.
- Defendant Branch Intermediate received the Petition via process server on July 12, 2022.

18. Thus, Defendants have filed this Notice of Removal within 30 days of receipt through service of the Petition. *See Couzens v. Donohue*, 854 F.3d 508, 514 (8th Cir. 2017); *see also* 28 U.S.C. § 1446(b).

B. All Defendants Consent to Removal.

19. Removal pursuant to 28 U.S.C. § 1441(a) requires that “all defendants who have been properly joined and served must join in or consent to the removal of the action.” 28 U.S.C. § 1446(b)(2)(A). All Defendants have joined this removal.

C. State Court Documents Attached.

20. In accordance with 28 U.S.C. §§ 1446(a), 1447(b), and 1449, a copy of all pleadings, process, orders, and other papers served upon Defendants are included in **Exhibit A** attached hereto.

D. Notice to State Court and Plaintiff.

21. Defendants will promptly serve Plaintiff with a copy of this Notice of Removal and file a Notice of Filing their Notice of Removal with the Circuit Court of St. Louis City, Missouri, as required by 28 U.S.C. § 1446(d). A copy of the notice, without exhibits, is attached hereto as **Exhibit C**.

V. Prayer and Conclusion.

22. If any questions arise as to the propriety of the removal to this Court, Defendants request the opportunity to present a brief oral argument in support of their position that this case has been properly removed.

23. Defendants pray that the United States District Court for the Eastern District of Missouri, accept this Notice of Removal, assume jurisdiction of this case, and retain jurisdiction for all further proceedings in this matter.

Dated this 10th day of August, 2022.

Defendants Suzanne Coco and Branch Intermediate School District

By: /s/ Adam S. McGonigle

Bharat Varadachari (50563MO)
Adam S. McGonigle (66073MO)
HeplerBroom LLC
701 Market Street, Suite 1400
St. Louis, Missouri 63101
(314) 241-6160
(314) 241-6116 fax
bzv@heplerbroom.com
asm@heplerbroom.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of August, 2022, the foregoing was filed with the Clerk of the Court using the CM/ECF system and that a true and correct copy of the above and foregoing was also served via e-mail on counsel of record:

Shaun M. Falvey
Goldblatt + Singer
sfalvey@stlinjurylaw.com
Attorneys for Plaintiff

/s/ Adam S. McGonigle